IN THE HIGH COURT OF JUDICATURE AT PATNA
CR. WJC No.377 of 2007
BHAGHRITA PANDIT
Versus
THE STATE OF BIHAR & ORS
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4 20.8.2008 In the instant writ petition the petitioner seeks a direction to the respondents to lodge a separate First Information Report on the basis of fardbeyan of this petitioner which was recorded in P.M.C.H. at 3.15 P.M. on 1.6.2007 by the Sub Inspector, Pirbahore P.S., Patna.

The petitioner also prays that the investigation may be handed over to any other agency for carrying out the rest of investigation.

The facts of the case in brief are that on 28.2.2007 at 7.30 P.M. in village Math Lohiyar Ahirtoli, Harsidih some miscreants including Kishundeo Prasad, Kapildeo Prasad, Pappu Prasad and many others came and started assaulting Nathuni Pandit and Sanjay Kumar, the son of the petitioner, and injured them. It appears that many persons of prosecution side including this petitioner also sustained injuries. In course of treatment Sanjay Kumar died.

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On the statement of Langer Pandit, Harsidih P.S.Case No.21 of 2007 dated 23.2.2007 was recorded. In the aforesaid case Langer Pandit alleged that accused Pappu Prasad struck farsa blow on the head of his brother Nathuni Prasad and accused Kishundeo Prasad, Rudal Prasad, Kapildeo Prasad assaulted Sanjay Kumar, Binod Pandit and others.

Subsequently fardbeyan of this petitioner was also recorded in P.M.C.H., as contained in Annexure-1.

Learned counsel for the petitioner submits that the fardbeyan of the petitioner recorded in P.M.C.H., was forwarded to the Officer-in-charge Harsidih P.S. on 20.3.2007 but in spite of that no F.I.R. has been lodged.

Learned counsel for the State submits that on the fardbeyan of Langer Pandit, Harsidih P.S.Case No.21 of 2007 dated 23.2.2007 has been recorded under section 307 and other allied sections of the Penal Code to which section 302 I.P.C. has been added. The fardbeyan of the petitioner recorded subsequently relates to the same occurrence. He submits that the fardbeyan of the petitioner has been incorporated in the case diary of Harsidih P.S.Case No.21 of 2007.

On perusal of the record, it appears that the fardbeyan lodged by Langer Pandit giving rise to Harsidih P.S.Case No.21 of 2007 as well as fardbeyan of the petitioner relates to the occurrence arising out of the same transaction, in which number of persons including the son of the petitioner were injured who subsequently died.

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In the F.I.R. lodged by Langer Pandit it has also been alleged that the accused persons assaulted the petitioner's son Sanjay Kumar with farsa.

In this view of the matter, I do not find any reason for passing any appropriate direction for institution of a separate case in view of the decision rendered in the case of T.T.Anthony Vs State of Kerala , 2001 SC 2637.

It would be open to the petitioner to pursue his case in the

on going proceeding arising out of Harsidih P.S. Case No.21 of 2007 which has now been converted into under section 302 Cr.P.C.

With the aforesaid observations, this writ petition stands disposed of.

KHAN (S.P.Singh,J)

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